**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR**

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**:: ORDER ::**

Pratap Singh Bishnoi Vs. State of Rajasthan & Ors.

**S.B. CIVIL WRIT PETITION NO.4070/2005**

Date of order :: 18.04.2006

**PRESENT**

**HON'BLE MR.JUSTICE DINESH MAHESHWARI**

Mr.Mahipal Rajpurohit for the petitioner.
Mr.S.G.Ojha for the respondent No.2

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**BY THE COURT:**

The petitioner appeared in Pre-Teacher Education Test, 2005 ('PTET-2005' for short) conducted by Maharshi Dayanand Sarawati University, Ajmer on 14.05.2005 for the purpose of admission to Bachelor of Education (B.Ed.) Course; obtained 438 marks and standing in merit at Serial No.155 in OBC Category; and appeared for counseling on 03.07.2005 but was denied admission to the B.Ed. Course on the ground of his having secured less than 42% marks in graduation. Aggrieved, the petitioner has preferred this writ petition with the assertions that his having appeared in Bachelor of Arts (Additional Subject) and having secured better marks thereat, when the same are counted for

graduation marks, his graduation percentage stands at 44.11 and he has wrongly been denied admission in the B.Ed. Course.

This Court took note of the submissions of the petitioner while issuing notice for final disposal in this writ petition on 14.07.2005 thus,-

> "According to learned counsel for the petitioner, the petitioner appeared in PTET, 2005 and he was declared passed. He was asked to appear for counseling and when he appeared for counseling, the Coordinator, PTET refused the admission to the petitioner on the ground that the petitioner's marks are below 42%.
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> According to learned counsel for the petitioner, the petitioner, since had some less marks, therefore, he for the purpose of improving his percentage gave examination for two subjects and he improved his percentage which can be gathered from Annex.4 where the petitioner's percentage has been given out as 44.11%. In view of this, the petitioner was wrongly denied admission in B.Ed. Course."

In response to the notice issued by this Court, the contesting respondent No.2 has submitted that the petitioner was not entitled to appear in PTET because he had not secured 42% marks in graduation and he had wrongly mentioned about his having more than 42% marks. While

referring to the graduation marks-sheet of the petitioner (Annex.1), it has been pointed out that the petitioner has obtained 744 marks out of 1800 in graduation that comes to 41.33%; obviously less than 42%. The answering respondent has placed on record a Photostat of the examination form submitted by the petitioner as Annexure R.2/1 and has pointed out that the admission card was issued by the University because the petitioner wrongly mentioned in the examination from that he had secured 44.17% marks in graduation; however, at the time of counseling, it was noticed that the petitioner had only 41.33% marks and, therefore, his form was cancelled. It has been maintained that merely passing of PTET does not invest the petitioner with any right to get admission in B.Ed. Course because the fact remains that the petitioner was suffering from basic ineligibility. It has also been contended that the petitioner is guilty of furnishing false information and securing admission by stating false percentage in his examination form and OMR Sheet; and the admission card was issued only because of feeding of false information supplied by the petitioner.

Learned counsel for the petitioner has strenuously contended that the petitioner cannot be held guilty of submitting any false information and he has rightly stated his

percentage of marks on the basis of marks obtained by him in the additional subject wherein he appeared to improve his percentage for his better future prospects. Learned counsel has also pointed out that the petitioner was permitted to appear in the same PTET Examination of the year 2003 wherein also his percentage of marks in graduation was taken as 44.11% while considering the marks obtained by him in B.A. Additional Subject. Per contra, learned counsel for the respondent has submitted that the petitioner has admittedly got 744 marks out 1800 in his graduation and the so-called additional subject marks cannot be counted for the purpose of percentage of graduation; and that the permission to appear in PTET was secured by the petitioner by not stating correct information in his admission form wherein he stated 794 marks out of 1800 in his graduation; and such assertion of facts being incorrect, the petitioner has rightly been denied admission to the B.Ed. Course and mere appearance in examination does not create any right in the petitioner particularly when correct facts were not stated. Learned counsel further submitted that the document Annexure 4 would be of no avail as it appears that the petitioner had secured permission to appear in PTET in the year 2003 from the other University also on the basis of this very wrong information.

Having examined the material placed on record and having given a thoughtful consideration to the rival submissions, this Court is clearly of opinion that the present writ petition remains bereft of substance and the petitioner is not entitled for any relief in the extra-ordinary writ jurisdiction of this Court.

The statement of marks obtained by the petitioner in his graduation, as available from his B.A. Final Examination, 1997 marks-sheet dated 21.07.1997, shows the petitioner having obtained the marks as follows:-

| SUBJECTS | MAX.MARKS | TOTAL MARKS |
|---|---|---|
| OPTIONAL: | | |
| History | 200 | 96 |
| Philosophy | 200 | 88 |
| Political Science | 200 | 73 |
| TOTAL MARKS | 600 | 257 |
| I YEAR MARKS | 600 | 226 |
| II YEAR MARKS | 600 | 261 |
| TOTAL MARKS OBTAINED IN OPTIONAL SUBJECTS | **1800** | **744** |

The aforesaid marks lead to the percentage at 41.33. The petitioner has placed on record three further statement of marks in the subject of 'Public Administration' wherein the petitioner has been shown to have obtained 86 marks out of 200 in B.A. Part-I Examination, 2002; 93 marks out of 200 in B.A. Part-II Examination, 2002; and 96 marks out of 200 in B.A. Final Examination, 2002. It appears from the aforesaid three marks-sheets of the Examinations-2002 that the petitioner has taken examination in the optional subject of Public Administration as an additional subject, may be to acquire additional qualification. However, the petitioner has failed to show as to how these marks obtained in the additional subject could at all be inserted into the marks obtained by him in the graduation as available in the marks-sheet dated 21.07.1997. The petitioner has at his own convenience stated the marks obtained by him in graduation as "794 out of 1800" taking the percentage to 44.11 without any rhyme, reason or justification. Permission by the University to take additional subject examination is entirely different a matter but it cannot be said that the marks obtained in such additional subject could be counted even for the purpose of percentage of marks of graduation. Obviously, the petitioner was wrong in his assertion before the University while filling up the examination form that he had secured 44.11% marks in graduation.

Reference to the information from OMR Sheet as stated in the document Annexure 4 is entirely misplaced and cannot be termed bona fide. The said document is the information as stated by Jai Narain Vyas University in relation to the PTET -2003 and it appears that the petitioner had therein also represented his percentage of marks in graduation as 44.11; and the said University in the document Annexure 4 had stated such information as adduced by the petitioner. The fact remains that the correct percentage of the marks of the petitioner in graduation is and stands at 41.33 (744 out of 1800) and the petitioner has chosen not to state the correct facts himself.

The petitioner having not been fair and truthful in his assertion and having furnished incorrect information has rightly been denied admission by the respondent-University in B.Ed. Course and this Court is clearly of opinion that the petitioner is not entitled to seek issuance of any writ, order or direction in the extra-ordinary writ jurisdiction of this Court.

Even otherwise, the petitioner has failed to show as to how at all the percentage of marks obtained in graduation could be altered by his taking further examination of additional

subject and has failed to show any rule permitting such course to be adopted where marks obtained in such additional subject could be inserted in the graduation marks. Recognition of additional qualification acquired by way of successfully taking Additional Subject examination is a matter entirely different, and leads to 'additional' qualification only and does not appear to be of a 'substitute' in the original graduation marks. Viewed from any angle, the writ petition remains devoid of substance.

The writ petition fails and is, therefore, dismissed; but, in the circumstances of the case, without any order as to costs.

**(DINESH MAHESHWARI), J**.

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